

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated August 28, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1, 4-5, 7-11, 14-15, 17-26 are pending in the Application. Claims 2, 3, 6, 12, 13 and 16 are canceled herein, without prejudice. The Applicants respectfully reserve the right to reintroduce subject matter deleted herein, either at a later time during the prosecution of this application or any continuing applications. Claims 21-26 are added by this amendment.

Applicants again respectfully request the Examiner to acknowledge the claim for priority and receipt of certified copies of all the priority document(s).

In the Office Action, claim 11 is objected to for an informality. Claim 11 is amended to remove the alleged informality noted by the Examiner. Accordingly, withdrawal of the objection to claim 11 is respectfully requested.

In the Office Action, claims 1, 2, 6, 11, 12 and 16 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 6,791,926 to Furumiya ("Furumiya"). Claims 3-5 and 13-15 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Furumiya in view of U.S. Patent Publication No. 2003/0147321 to Okubo ("Okubo"). Claims 7 and 17 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Furumiya in view of U.S. Patent No. 6,181,659 to Kobayashi ("Kobayashi"). Claims 8-10 and 18-20 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Furumiya in view of U.S. Patent No. 6,252,731 to Sloan ("Sloan"). It is respectfully submitted that claims 1, 4-5, 7-11, 14-15, 17-26 are allowable over Furumiya alone and in view of any combination of Okubo, Kobayashi and Sloan for at least the following reasons.

It is undisputed that Furumiya fails to disclose varying the writing power level of the measurement data pattern (see, Office Action, page 4). Okubo is cited for showing varying the writing power level of the measurement data pattern. As shown in Okubo FIGs. 3(b), 3(c), the same predetermined data is written to tracks T0, T1, T2 with a varied power level. Okubo makes clear that (emphasis added) "a signal of a predetermined pattern is

respectively recorded on the tracks T1, T2 adjacent to both sides of the center track ... while changing the recording power with the same timing as that of the center track T0." (See, Okubo, paragraph [0034].)

It is respectfully submitted that the method of claim 1 is not anticipated or made obvious by the teachings of Furumiya alone and in view of Okubo. For example, Furumiya alone and in view of Okubo, does not disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis added) "measuring jitter values for the reference and measurement data patterns; and selecting an optimum operating set of write parameters of the laser device for writing data to the optical storage medium in dependence upon the measured reference and measurement jitter values, the optimum set of write parameters minimizing the jitter value for the optical storage medium, wherein a power level of the laser device varies over the writing of the measurement data pattern and wherein the power level of the laser device over the writing of the reference data pattern is fixed" as recited in claim 1, and as similarly recited in claim 11. Each of Kobayashi and Sloan are introduced for allegedly showing elements of the dependent claims and as such, do nothing to cure the

deficiencies in Furumiya alone and in view of Okubo.

Based on the foregoing, the Applicants respectfully submit that independent claims 1 and 11 are patentable over Furumiya alone and in view of Okubo and notice to this effect is earnestly solicited. Claims 4-5, 7-10, 14-15, 17-26 respectively depend from one of claims 1 and 11 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

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Amendment in Reply to Office Action of August 28, 2008

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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